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March 19, 2009

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VIA HAND DELIVERY
Jeff S. Jordan, Esquire
Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

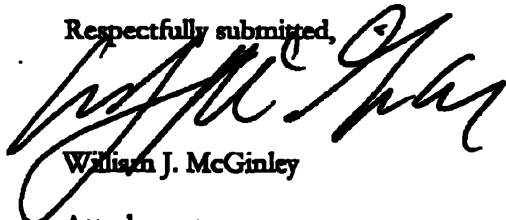
Re: MUR 6154
Coleman for Senate,
And Rodney A. Axtell, as Treasurer

Dear Mr. Jordan:

Please find attached the response of our clients, Coleman for Senate and Rodney A. Axtell, as treasurer, to the complaint filed against them in the above-referenced matter.

Please contact me with any questions.

Respectfully submitted,



William J. McGinley

Attachments

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of)
) MUR 6154
Coleman for Senate,)
And Rodney A. Axtell, as Treasurer)

RESPONSE OF COLEMAN FOR SENATE, AND RODNEY A. AXTELL, AS
TREASURER, TO THE COMPLAINT

This responds on behalf of our clients, Coleman for Senate and Rodney A. Axtell, as Treasurer (collectively "Campaign"), to the notification from the Federal Election Commission ("Commission") that a complaint filed against the Campaign in the above-referenced matter. The complaint was filed by a political opponent of the campaign and is nothing more than a baseless, speculative attack that has no merit. For the reasons set forth below, the Commission should dismiss the complaint, close the file, and take no further action.

The complaint concerns a false charge that Senator Coleman is somehow improperly using campaign funds to pay retained counsel to answer the politically-motivated attacks made against him in connection with a civil lawsuit and related press inquiries. Compl. at 1. However, as the complaint acknowledges, the Campaign has stated publicly that it will secure the necessary approvals before using campaign funds to pay the legal costs. Compl. at 2; Tony Kennedy, *Coleman Will Use Campaign Funds To Pay Legal Fees*, Star Tribune (Dec. 17, 2008) ("We will be seeking the necessary approvals at the proper time to ensure that this is done in strict accordance with all appropriate laws and rules."). As stated in the article, the Campaign has filed an Advisory Opinion Request with the Commission seeking confirmation that it may use campaign funds to pay for the costs outlined in the request.¹ Finally, as of the date of this filing, no campaign funds have been used to pay for the

¹ We submitted an Advisory Opinion Request more than 45 days ago. However, the Commission staff has made numerous requests for additional information before they will formally accept the request. We are continuing to work with the staff regarding these questions and anticipate that the request will be formally accepted in the very near future.

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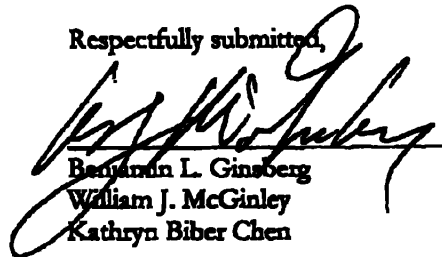
legal services discussed in the complaint. The Campaign is awaiting confirmation from the Commission that its funds may be used for such purposes.

The evidence cited by the complainant – that the campaign is seeking and securing the necessary approvals before using campaign funds to pay the legal fees - directly contradicts the erroneous allegations made in the complaint. Commissioners Wold, Mason, Thomas, Statement of Reasons, MUR 4850 ("A mere conclusory accusation without any supporting evidence does not shift the burden of proof to respondents. . . . The burden of proof does not shift to a respondent merely because a complaint is filed."); Commissioners Mason, Sandstrom, McDonald, Smith, Thomas, Wold, Statement of Reasons, MUR 5141 ("A complainant's unwarranted legal conclusions from asserted facts, will not be accepted as true."). Also, the complaint's speculative accusations that a violation may occur in the future are not a sufficient basis for finding reason to believe – especially since the Campaign has not expended any funds and has submitted an Advisory Opinion Request on the issue. Commissioners Mason, Sandstrom, Smith, Thomas, Statement of Reasons, MUR 4972 ("Mere speculation will not support an RTB finding."); Commissioners Mason, Sandstrom, Smith, Thomas, Statement of Reasons, MUR 4960 ("Such purely speculative charges, especially when accompanied by a direct refutation, do not form an adequate basis to find reason to believe that a violation of the FECA has occurred.").

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For all the reasons stated above, there is no factual or legal basis for finding reason to believe in this matter. We respectfully request that the Commission dismiss the complaint, close the file, and take no further action in this matter.

Respectfully submitted,



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